



U.S. Department of the Interior  
Bureau of Land Management

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# Wisconsin

Proposed Resource Management Plan Amendment  
Environmental Assessment:  
Disposition of Public Domain Properties



### *BLM Mission*

*It is the mission of the Bureau of Land Management to sustain the health, diversity and productivity of the public lands for the use and enjoyment of present and future generations.*

## **Executive Summary**

The Wisconsin Proposed Resource Management Plan Amendment/Environmental Assessment (Proposed Plan) is designed to give Bureau of Land Management (BLM) authority to transfer from its jurisdiction twelve tracts of public land in the state. Four of the tracts contain lighthouses no longer required by the U.S. Coast Guard (USCG). The remaining parcels are small, scattered tracts located in five Northern Wisconsin counties.

In order to transfer jurisdiction, BLM must explicitly identify the tracts it believes should be transferred out of its administration and which criteria should be applied to determine the most appropriate recipients of the properties. The proposed plan identifies all of the tracts as suitable for transfer. The disposal criteria developed in the planning process will be applied when BLM reviews site-specific proposals for each parcel.

The proposed plan also identifies the procedures and additional studies that must be completed before any lands are transferred. These include archaeological surveys, consultations under the Endangered Species Act, and other site-specific studies, as appropriate. Native American tribes and the State Historical Society of Wisconsin will be contacted as well, in accordance with the National Historic Preservation Act, as amended, and other Federal laws.

In addressing these questions BLM has worked closely with the public and many Federal, state and local government agencies. The purpose of these contacts has been to ensure that BLM's actions are consistent with other agencies' programs, policies and plans. BLM solicited the agencies' views on the future disposition of the affected parcels.

Much of the focus of this planning effort has been the status and future management of the four lighthouse properties. The proposed plan reflects the input of these interested parties, as well as the requirements of many Federal laws, policies and programs.

The result of these contacts and the analysis contained in the proposed plan has been to provide management direction when considering applications to acquire the properties. No decisions have been made on the disposition of the tracts. Instead, the disposal criteria and the results of site-specific environmental assessments will guide decisionmakers on a case-by-case basis. The public and other parties will continue to be involved in the planning process to ensure that all viewpoints are heard and no issues are overlooked.

The proposed plan assesses three alternatives: (1) transfer out of BLM administration; (2) no action; and (3) BLM retention and active management. BLM's preferred alternative is Alternative One, by which BLM would transfer the parcels under several legal authorities: the Federal Land Policy and Management Act for public sales or land withdrawals to other Federal agencies, or no-cost sales to State or local agencies under the Recreation and Public Purposes (R+PP) Act. Not-for-profit organizations would be eligible to acquire historic properties (i.e., lighthouses) under the R+PP Act, but would have to pay 50 percent of fair market value for the property.

The tracts affected by the proposed plan fall into one of two categories:

1. Lighthouse stations declared excess by the United States Coast Guard and referred to BLM for further disposition; or

2. Other upland public domain parcels in the State of Wisconsin.

At the outset, BLM management decided that:

- Lighthouse properties should be kept in public ownership, whenever possible;
- Historic preservation and tourism are important factors to be considered when BLM reviews specific proposals for the lighthouses;
- Any decisions regarding land transfers should consider both local impacts and the national interest;
- BLM will try to divest itself of these properties unless no qualified entity or individual comes forward to acquire the land.

These decisions have been largely supported by those groups and individuals who participated in the planning process.

The proposed plan will be circulated for a period of *no longer than 30 days* prior to which any person who has participated in the planning process and who believes they will be adversely affected by the implementation of the plan may file a protest with the BLM Director.

A decision record (DR) will be issued after any protests are resolved by the Director. At that time, BLM will implement the plan in accordance with the DR's provisions and as budgets allow.

## **Chapter One – Introduction**

### **Purpose and Need**

The Wisconsin Proposed Resource Management Plan Amendment/Environmental Assessment (proposed plan) addresses the future disposition of twelve properties under the jurisdiction of the Bureau of Land Management (BLM). The proposed plan has been prepared under the authority of Section 202 of the Federal Land Policy and Management Act of 1976 (FLPMA) and the National Environmental Policy Act of 1969 (NEPA).

The twelve tracts total approximately 610 acres. BLM must prepare a plan to determine whether disposal is in the public interest and to analyze possible impacts of a range of alternatives.

The proposed plan amends the original resource management plan for BLM lands and resources in Wisconsin approved in 1985 (BLM 1985). That plan did not identify specific tracts for disposal as required by FLPMA and did not analyze environmental impacts in accordance with NEPA. The proposed plan satisfies both of these legal requirements.

The lands considered in the proposed plan fall into one of two categories:

1. Relinquished lighthouse stations currently withdrawn from operation under the public land laws for use by the U.S. Coast Guard (USCG); or
2. Other public domain parcels in the State of Wisconsin.

### **Description of Planning Area**

The planning area includes only those tracts being considered for further disposition. For the purposes of analysis, BLM did consider environmental effects on surrounding lands. The legal land descriptions are found in Appendix 2.

#### **Bayfield County**

Perry Lake (Town of Cable)  
Lake Osborn (Town of Grandview)

#### **Door County**

Cana Island Lighthouse (Town of Baileys Harbor)  
Eagle Bluff Lighthouse (Town of Gibraltar)  
Pilot Island Lighthouse (Town of Washington)  
Plum Island Lighthouse (Town of Washington)

#### **Langlade County**

Lower Bass Lake (Town of Upham)

**Oneida County**

Lily Lake (Town of Crescent)

**Vilas County**

Big Lake (Town of Presque Isle)

Pickerel Lake (Town of Cloverland)

**Waupaca County**

Clintonville (Town of Matteson)

## **Planning Issues**

BLM's planning handbook defines planning issues as disputes over how best to manage resources that a plan should resolve. A set of planning issues was identified from an analysis of comments solicited by BLM from the general public, other State, Federal and local agencies, and Native American tribes.

### **Lighthouses**

The bulk of issues identified by the public relate to the future management of the Door County lighthouses. Many people requested that BLM ensure that the lighthouses have public access. A few people inquired whether any of the lighthouses could be sold to private developers.

In general, lighthouse issues related to eligibility for inclusion on the National Register of Historic Places; access and tourism; local impacts (neighborhood); archaeological and cultural resources; and natural resource protection, particularly for threatened or endangered species.

### **Upland Tracts**

The remaining parcels are called "upland tracts" to separate them from the 600+ islands that BLM owns in Wisconsin. Some of these tracts have had ownership conflicts and have active claims for ownership filed under the Color-of-Title Act (45 Stat. 1069), as amended.<sup>1</sup> If a color-of-title claim is rejected because it does not meet the requirements of the act, the parcel may be classified for sale under FLPMA. If a color-of-title claim is rejected to protect natural or cultural resource reasons, the land will most likely be made available for transfer to another Federal, state or local governmental agency or non-profit conservation group.

Several parcels do not have title conflicts and are considered available for transfer under the

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<sup>1</sup> See page 17, 18 for a brief explanation of how these parcels remained in Federal ownership after Statehood in 1848.

public land laws. These tracts are located in Bayfield, Langlade, Oneida and Vilas counties. At issue for these parcels is how any transfers might affect the local area's rural character.

## **Decisions That Will Be Made**

The primary goal for this planning effort is to give BLM the authority to transfer jurisdiction of its remaining lands in the state. To accomplish that BLM must: (1) specifically identify lands suitable for disposal based on the disposal criteria in FLPMA; and (2) identify any additional criteria appropriate to address local circumstances. Both FLPMA's and the plan's disposal criteria will be used to evaluate proposals submitted by prospective land owners.

BLM's planning handbook requires the following determinations to be made in a land use plan:

- which lands are appropriate for limited, restricted or exclusive use;
- which lands could be transferred from BLM administration;
- the resource goals and objectives to be attained for BLM lands and resources;
- the support actions needed to implement the plan (e.g., realty actions, land surveys, protective measures); and
- monitoring intervals and standards.

The proposed plan makes some of these determinations. Other determinations, such as monitoring intervals and standards and specific goals for each parcel, will be made at the site-specific planning phase. The proposed plan does not identify specific individuals or entities to receive the properties.

## **Current Management Guidance**

Under the existing plan for BLM lands in Wisconsin, all public lands are designated as suitable for disposal, unless certain exceptions exist to require that BLM retain the parcels (BLM, 1985; see Appendix 3). FLPMA (Sec. 203(a), 43 U.S.C. 1713) provides the basic disposal criteria. It states that BLM may convey out of its ownership lands which are too expensive or unwieldy to manage, lands that it no longer requires for a particular use or land that would meet other important needs, including local community expansion or for recreation. Additional criteria can be developed through the land use planning process.

Through the planning process, BLM determines whether disposal is in the national interest by developing a set of criteria or rules that will be reviewed against each parcel and its proposed use. As part of the plan amendment process, BLM reviewed existing disposal criteria, laws and policies, and public comments to determine which tracts should be transferred from BLM's jurisdiction, and under what circumstances the transfers should occur.

Based on this review, BLM will adopt, in its entirety, the lands disposal decision from the 1985 Wisconsin RMP and supplement it with additional criteria developed in the proposed plan.

## **Disposal Criteria Developed as a Result of the Plan Amendment**

In addition to the criteria identified in Appendix 3, the following standards will be applied to each proposal. (See Table 1 below to see how the existing and new disposal criteria affect each tract.)

1. Where parcels have historic structures and existing leases to not-for-profit groups to manage the buildings, BLM will encourage the proposed land owner to continue these management arrangements after the lands are transferred. Conveyance instruments (deeds, patents or leases) for these sites will contain provisions to ensure that historic buildings continue to receive protection under the National Historic Preservation Act of 1966, as amended (NHPA).
2. All applicable Federal, State and local laws, plans and policies will be followed with respect to protection of threatened and endangered wildlife and plant species, historic preservation, Native American religious concerns, hazardous materials, and archaeological resource protection. All consultations and reviews required by law will be conducted when BLM reviews specific applications and prepares the environmental assessments.
3. Applications for the Cana Island lighthouse property shall address the transportation, parking and access issues raised during scoping. Specifically, applicants will need to describe how traffic and parking impacts will be mitigated. This will be required for all Recreation and Public Purposes Act plans of development or withdrawal applications.

BLM will not specify any particular means to reach this objective. Instead, BLM will work with the local community and applicants to ensure that tourist access to Cana Island lighthouse does not contribute any undue or unnecessary impacts to the neighborhood or surrounding area.

4. A major objective of this plan is to enable BLM managers to approve reasonable and rational land tenure adjustments. In some cases this means that certain properties would be transferred to a governmental entity, while in others it may mean the land would be available for public sale. BLM will take into account access, environmental consequences, economic costs and benefits, and other site-specific issues before making decisions regarding individual parcels.
5. BLM cannot accept properties that contain toxic materials or other hazardous wastes. Two



lighthouse properties – Plum Island and Pilot Island – are known to be contaminated.<sup>2</sup> The Coast Guard has scheduled clean-up efforts for these properties in 2003. Lands that cannot be decontaminated within a reasonable time period, pose problems for other resource values, such as historic buildings that deteriorate without adequate maintenance. Because contaminated lands cannot be determined suitable for return to the public domain and disposition under the general land laws, BLM may notify the Coast Guard to report the properties instead to the General Services Administration for disposal.

Table 1. Disposal Criteria.

County/ Parcel Name	Goals/Objectives for Parcel	Resource Objectives	Procedural Requirements	Appropriate Disposal Method(s)
<b>Bayfield County</b>				
<i>Perry Lake</i>	Eliminate scattered tracts Improve land ownership patterns	Protect natural and cultural resources	All applicable consultations under Federal law (see Note 1) Appraisal (for public sales only)	Recreation and Public Purposes Act lease or sale (R+PP) Color-of-Title Act sale FLPMA sale
<i>Lake Osborn</i>	Eliminate scattered tracts Improve land ownership patterns Eliminate in- holdings w/out legal access	Protect natural and cultural resources	See Note 1 Appraisal (for public sale only)	FLPMA sale

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<sup>2</sup>/ Cana Island has minor groundwater contamination. The Wisconsin DNR has recommended to the Coast Guard to accept a “groundwater use restriction” on the deed that goes with the land in lieu of remediation. As of the date of publication of this plan, the Coast Guard has yet to decide whether to accept the use restriction or proceed with a clean up of the site.

County/ Parcel Name	Goals/Objectives for Parcel	Resource Objectives	Procedural Requirements	Appropriate Disposal Method(s)
<b>Door County</b>				
<i>Cana Island</i>	Maintain/restore historic resources Minimize off-site impacts Contribute to local economy Improve access w/out significant off-site impacts Transfer property to qualified long-term manager	Protect endangered or special status plant and animal species Minimize impacts to fisheries Preserve historic resources	Transportation/access plan See Note 1	Withdrawal R+PP BLM-retained site (See Note 2)
<i>Eagle Bluff</i>	Maintain historic resources Continue to be an integral part of Peninsula S.P. Transfer property to qualified long-term manager	Interpret maritime and Wisconsin history Preserve historic resources	See Note 1	R+PP
<i>Pilot Island</i>	Protect public safety	Protect endangered or special status plant and animal species	See Note 1	R+PP Withdrawal BLM-retained site (See Note 2)
<i>Plum Island</i>	Restore/maintain historic resources Transfer property to qualified long-term manager	Protect natural and cultural resources Preserve historic/cultural resources	See Note 1	Withdrawal R+PP BLM-retained site (See Note 2)

County/ Parcel Name	Goals/Objectives for Parcel	Resource Objectives	Procedural Requirements	Appropriate Disposal Method(s)
<b>Langlade County</b>				
<i>Lower Bass Lake</i>	Eliminate scattered tracts Improve land ownership patterns Eliminate in- holdings w/out legal access Proposed use in conformance with local zoning requirements	Protect natural and cultural resources	See Note 1 Appraisal	FLPMA sale BLM-retained site (See Note 2)
<b>Oneida County</b>				
<i>Lily Lake</i>	Eliminate scattered tracts Improve land ownership patterns	Protect natural and cultural resources	See Note 1 Appraisal	R+PP BLM-retained (See Note 2) FLPMA sale
<i>Pickarel Lake</i>	Eliminate scattered tracts Improve land ownership patterns	Protect natural resources	See Note 1 Appraisal	R+PP BLM-retained site (Note 2) FLPMA sale
<b>Vilas County</b>				
<i>Big Lake</i>	Eliminate scattered tracts Improve land ownership patterns Eliminate in- holdings	Protect natural resources	See Note 1 Appraisal	R+PP BLM-retained site (Note 2) FLPMA sale

County/ Parcel Name	Goals/Objectives for Parcel	Resource Objectives	Procedural Requirements	Appropriate Disposal Method(s)
<b>Waupaca County</b>				
<i>Clintonville</i>	Eliminate scattered tracts Improve land ownership patterns	Protect natural resources	See Note 1 Appraisal	R+PP FLPMA sale

Table 1. Disposal Criteria.

Note 1: Including consultations under Sec. 7 of the Endangered Species Act and Sec. 106 of the National Historic Preservation Act, and clearances required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended. This list is by no means inclusive; other reviews, consultations and clearances may be required on a site-specific basis.

Note 2: This indicates a possible (legal) disposal option. BLM will not, as a general rule choose the option of retaining parcels unless no other appropriate entity will accept jurisdiction or through a site-specific analysis it is determined that retention would better fulfill the management objectives for the parcel.

## How this Plan is Affected by Other Plans, Programs and Policies

BLM reviewed the following plans, policies and programs of other State, Federal, Local agencies to ensure that the proposed plan is consistent to greatest extent possible with these entities mandates.

### U.S. Fish and Wildlife Service

The USFWS manages three islands off the Door Peninsula as units of the National Wildlife Refuge (NWR) System. These units include Gravel Island NWR and Green Bay NWR (Spider and Hog Islands).

The USFWS is responsible for the protection of endangered plant and animal species under Section 7 of the Endangered Species Act of 1973, as amended. BLM consulted with the FWS during the preparation of the proposed plan, as well as the Wisconsin Department of Natural Resources, Bureau of Endangered Resources, to identify all listed and potentially eligible species that may be affected by BLM's actions. The results of these contacts can be found in Chapter Three — Affected Environment in the listings for each tract.

## **Native American Tribal Concerns**

None of the parcels are within recognized tribal reservation boundaries. To gain a better understanding of the possible nature and extent of the use by Native Americans, BLM wrote to Tribal leaders and tribal historic preservation officers in June and July, 1999, and followed up with telephone calls to these individuals. This effort revealed no additional information regarding Native American religious sites, ceremonial sites or treaty rights. Additional consultation with Federally-recognized tribes will take place on a case-by-case basis.

## **State Agencies**

BLM consulted with several state agencies during the preparation of the proposed plan to ensure that we were consistent, to greatest extent possible with the plans and policies of the state. These plans and policies include the Wisconsin Coastal Management Program, State Forest Plans and the Grand Traverse Islands State Park plan.

The State Historical Society of Wisconsin (SHSW) has indicated that the Door County islands — Cana, Plum and Pilot — may have archaeological resources that could make the properties eligible for listing on the National Register of Historic Places. In order to protect potentially eligible archaeological resources, BLM will require Phase II evaluations of these properties prior to transfer, as required by Section 106 of the National Historic Preservation Act of 1966, as amended.

The State Department of Commerce recently revised its rule regarding private on-site sewage treatment facilities. The rule, known as Comm 83, deals with the design, construction, operation and maintenance of onsite sewage systems (DOC 1998). Comm 83 was scheduled to be effective July 1, 2000, but has been delayed as a result of a lawsuit filed by environmental groups and some local communities. The revised change, if implemented, may alter the types of development which could occur on the parcels included in this plan. For example, soil conditions on some of the tracts have not in the past supported on-site sewage systems, but may when Comm 83 becomes effective.

## **Municipal and County Governments**

The Wisconsin Statutes give counties zoning authority. Of particular concern for the affected parcels are shore land setback standards, since most of the tracts are located along lakes. A general discussion of county zoning is found in Chapter Three — Affected Environment. Towns in the state also have some authority over land use (Wisconsin State Legislature, 1997). BLM will consult with the affected towns during the reviews of site-specific proposals.